

APPLICANTS:
Wayne Bowers & Jeffrey Hoilman

REQUEST: A variance to permit a
sunroom within the required rear yard
setback in the R2/COS District

HEARING DATE: October 23, 2006

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5566

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Wayne Bowers

CO-APPLICANT: Jeffrey Hoilman

LOCATION: 2217 Kempton Park Circle – Hunter's Run Subdivision, Bel Air
Tax Map: 56 / Grid: 2E / Parcel: 346 / Lot: 134
First (1st) Election District

ZONING: R2 / Urban Residential District (R2/COS)

REQUEST: A variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to permit a sunroom to be located within the required 35 foot rear yard setback (28 foot setback proposed), in the R2/COS District.

TESTIMONY AND EVIDENCE OF RECORD:

Jeffrey Hoilman of American Design and Build, Inc., the Applicant's contractor, described the Applicant's request to cover an existing 18 foot by 12 foot deck with a sunroom enclosure. Mr. Hoilman explained that the house, as it exists on the lot, was positioned at an angle to Kempton Park Circle, which is the road on which the house fronts. As a result of the house not sitting 'square' with the front property line, the rear deck (which is allowed to encroach within the rear yard setback) is, at its closest, within 28 feet of the rear property line and, at its farthest, within 33 feet of the rear property line. The required rear yard setback is 35 feet. Furthermore, says Mr. Hoilman, the property is also a corner lot and accordingly is encumbered by two front yard setbacks, and a 7-1/2 foot Drainage and Utility Easement runs along the two sides of the property which are not considered front yards.

Mr. Hoilman states that the sunroom will be placed directly upon the existing deck, and will not extend beyond it. The sunroom itself will be constructed to match the appearance of the existing home. Mr. Hoilman further states that the Applicant's property is adjoined by open space to its rear, along its rear property line.

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The Applicant has submitted a letter from the Hunter's Run Homeowners Association which indicates that its Architectural Review Board has approved the sunroom addition.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning, who believes that the property is unique. It is a corner lot with two front yard setbacks. Furthermore, the lot itself is shallower than others in the area which limits the amount of usable back yard space. Furthermore, the property adjoins open space to its rear which itself is accessed by a panhandle drive which abuts the Applicant's property. The creation of the panhandle causes the Applicant's lot to be somewhat shallower than others in the area.

The Department believes there will be no adverse impact on any adjoining property owner. Since existing, mature trees and vegetation exists on the property, the Department recommends no additional screening. Accordingly, the Department recommends approval.

No evidence or testimony was presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The subject property is an approximately one-quarter acre, nicely improved parcel located on Kempton Park Circle. Being a corner lot the property is required to observe two front yard setbacks. The property is also encumbered on the two remaining sides by a 7-1/2 foot Drainage and Utility Easement. Furthermore, the property is, quite obviously, somewhat shallower than others surrounding it as a 20 foot wide panhandle is located directly behind the lot which accesses an open space lot. The size of the subject property is as a result highly constrained by these characteristics which, in total, clearly create a uniquely shaped parcel.

Furthermore, the house itself is set at somewhat of an angle to the street directly in front of the house. It is very unclear from the photographs in the file as to why this particular configuration was chosen by the builder. Nevertheless, it is the configuration which the property owner must live with. The property owner now wishes to enclose an existing deck with a sunroom and finds that he is unable to do so without encroaching up to 7 feet within the rear yard setback. It is important to note that except for the panhandle which runs along the back of the property a variance would not have been required by the Applicant.

It is accordingly found that the property is unique, and as a result the Applicant suffers a practical difficulty in not being allowed to build an enclosed sunroom over an existing deck without encroaching upon the rear yard setback by up to 7 feet. The sunroom as proposed by the Applicant is a typical feature of the Applicant's neighborhood, no adverse impact will result, and the relief requested is the minimum necessary to alleviate the hardship.

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CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the Applicant obtaining all necessary permits and inspections.

Date: December, 6 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on JANUARY 5, 2007.